

90-6-2-86
C. Susan

DO NOT FOR YOUR
INFORMATION

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

FILE

United States of America, et al.,
Plaintiffs,

-vs-

Walker River Irrigation
District, et al.,

Defendants.

NO. C-125-ECR
C-125-B
United States District Court
400 S. Virginia Street
Reno, Nevada 89501
October 1, 2004

COPY

TRANSCRIPT OF STATUS CONFERENCE

BEFORE THE HONORABLE ROBERT A. MCQUAID, JR.

UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

FOR PLAINTIFF WALKER RIVER
PAIUTE TRIBE:

Alice Walker
Attorney at Law

FOR PLAINTIFF UNITED STATES:

Susan Schneider
Attorney at Law

FOR PLAINTIFF MINERAL COUNTY:

Simeon Herskovits
Attorney at Law

FOR LYON COUNTY:

George Benesch
Steve Rye
Attorneys at Law

FOR PLAINTIFF MONO COUNTY:

Stacey Simon
Attorney at Law

1 A P P E A R A N C E S: (Cont')

2 FOR PLAINTIFF RIVIGLIO, ET Al.: Laura A. Schroeder
3 Attorney at Law

4 FOR DEFENDANT LANDOLTS: William E. Schaeffer
5 Attorney at Law

6 FOR DEFENDANT WALKER RIVER
7 IRRIGATION DISTRICT: Gordon DePaoli
Dale Ferguson
Attorneys at Law

8 FOR DEFENDANT UNITED STATES
9 BOARD OF WATER COMMISSIONERS: Linda Bowman
Attorney at Law

10 FOR DEFENDANT NEVADA DEPARTMENT
11 OF WILDLIFE: Marta Adams
Attorney at Law

12 ATTORNEY GENERAL OF CALIFORNIA
13 (Present telephonically): Michael Neville
Deputy Attorney General

14

15

16

17 Proceedings recorded by mechanical stenography produced by
18 computer-aided transcript

19 OFFICIAL COURT REPORTER: KATHRYN M. FRENCH, RPR
20 NEVADA LICENSE NO. 392
21 CALIFORNIA LICENSE NO. 8536

22

23

24

25

1 Joseph O. and Beverly J. Landolt Trust Agreement?

2 MR. HOWARD: Well, that's a good question. And I
3 don't know the answer to that.

4 THE COURT: It is a good question because if that's
5 the fact, shouldn't the trust agreement be the party to this
6 case rather than the Landolts?

7 MR. HOWARD: Well, no, they're the trustees, so they
8 would be -- it would be the proper parties.

9 Now, we can make the allegation that they are the
10 trustees and could go on from there, but they are the
11 trustees. It's not like the trustees of the trust is a
12 separate organization like a corporation. It's a trust.
13 It's a means of holding property. They're the ones that are
14 holding the property in the name of the trust as the trustees.

15 The problem, as I see it, is that there are
16 two problems. The request by itself to stay the court
17 proceeding, at the same time as the Landolts are being
18 denied access or participation in the mediation proceeding,
19 ends up by itself being a denial of equal protection, and a
20 denial of due process where there's, apparently, something
21 going on that is potentially affecting their rights in which
22 they have no means of participating.

23 THE COURT: But they're going to have a means to
24 participate. The process provides that if the settlement
25 negotiations are successful and at least a tentative agreement

1 is reached, that all the parties in this matter are going to
2 have an input at that point to say yeah or nay, we approve, we
3 disapprove, and here's why, and it will get decided at that
4 time.

5 MR. HOWARD: Well, it seems to me that's sort of
6 letting -- closing the barn door after the horses have
7 gotten out. I mean, the truth is that they should have an
8 impact on the discussion as it is right now, so that the
9 conclusion is something they'll have an input on, not just
10 after the fact. And as this court I'm sure knows, I mean
11 once a decision is made, then we're in the position of
12 trying to persuade somebody that a decision that was made
13 by a bunch of people over here is the wrong decision, rather
14 than having an input on making the decision in the first
15 place.

16 THE COURT: Why did they wait so long to file this
17 motion if they're serious about it?

18 MR. HOWARD: I hope that you're not suggesting that
19 you don't think that they're serious.

20 THE COURT: I'm suggesting that I have some question
21 as to why they waited this long to file this motion if they
22 have this great concern that the Tribe is using too much
23 water. I mean, this report has been published since 1999.
24 This lawsuit has been going on for -- since 1992. It seems
25 to me that once they get denied access to mediation, they

1 people get served with any request for extension.

2 MS. SCHROEDER: Thank you, Your Honor.

3 THE COURT: Anything else?

4 (No response.)

5 THE COURT: Hearing nothing, Thank you very much.

6 We're adjourned.

7 (Court adjourned.)

8

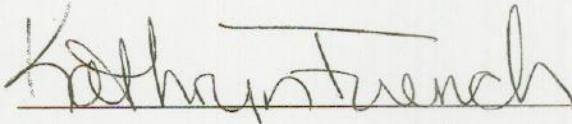
9

10

11 I certify that the foregoing is a correct transcript from
12 the record of proceedings in the above-entitled matter.

13

14



15

KATHRYN M. FRENCH, RPR, CCR

16

17

18

19

20

21

22

23

24

25

10-8-04

DATE